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April 25, 2019

VIA ECF AND VIA ELECTRONIC MAIL

Honorable Stuart M. Bernstein
United States Bankruptcy Court
Southern District of New York
One Bowling Green, Room 723
New York, New York 10004-1408
bernstein.chambers@nusb.uscourts.gov

Re: Picard v. Carol Nelson, Adv. Pro. No. 10-04658 (SMB) and *Picard v. Carol and Stanley Nelson*, Adv. Pro. No. 10-04377 (SMB)

Dear Judge Bernstein:

We write in response to Defendants' April 24, 2019 letter (the "Letter") requesting permission for the third time in this case and second time this month to make a motion to adjourn the May 8, 2019 trial. The Trustee again opposes Defendants' request and asks the Court for expedited resolution given the pending trial date and associated deadlines. The Letter is devoid of any case law or applicable rules justifying the relief requested by Defendants and fails to specify why Mr. Oppenheim's testimony is essential to the determination of the issues before the Court or how his unavailability will prejudice Defendants. Defendants' Rule 26 Disclosures and discovery responses disclose that Mr. Oppenheim's knowledge is limited to the taxes the Defendants paid each year on their reported BLMIS income- he knows nothing about the transfers or any of the other issues before the Court. As set forth more fully in the Trustee's Motion in Limine Number 3 to Exclude Testimony and Exhibits Related to Defendants' Asserted Tax Obligations to Governmental Taxing Authorities, this testimony is not relevant and is unnecessary as this Court and the District Court have already rejected Defendants' affirmative defense that they are entitled to any "setoff or equitable adjustment" to the extent the fraudulent transfers were "used to pay tax obligations."¹

¹ *Picard v. Carol Nelson*, Adv. Pro. No. 10-04658, ECF No. 142 and *Picard v. Carol and Stanley Nelson*, Adv. Pro. No. 10-04377, ECF No. 138.

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Further, the Trustee objects to the untimeliness of Defendants' request caused solely by their failure to properly manage their witness' schedule. This case has been set for trial since January 18, 2019,² allowing sufficient time for Defendants to notify Mr. Oppenheim of the trial dates so he could ensure his availability.

Respectfully submitted,

/s/ Dean D. Hunt

Dean D. Hunt
Partner

cc: Helen Davis Chaitman (*cchaitman@chaitmanllp.com*)

² *Picard v. Carol Nelson*, Adv. Pro. No. 10-04658, ECF No. 130 and *Picard v. Carol and Stanley Nelson*, Adv. Pro. No. 10-04377, ECF No. 126.